

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.2626 OF 2005

JUDGMENT:

Aggrieved by the order and decree, dated 10.01.2005, in O.P. No.169 of 2001, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - II Additional District Judge, Madanapalle, whereby and whereunder, the claim petition filed by the petitioners was dismissed, the petitioners preferred the instant appeal.

2. The facts in brief are that one Patan Dowlath Khan, who is father of petitioner No.1 and respondent No.7, and husband of petitioner No.2, died in a road accident that took place on 21.7.2000, at about 4.30 p.m.; of course, the manner in which the accident had occurred and amount sought are forthcoming in the petition.

The claim was for grant of Rs.2,00,000/-.

3. Respondent Nos.5 and 6 are also related to the petitioners and respondent No.7. In fact, concerning the very same accident, respondent Nos.5 and 6 have filed M.V.O.P. No. 207 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - Principal District Judge, Kadapa, in the month of April, in which, the present petitioners were not arrayed as parties.

4. The claim in M.V.O.P. No.207 of 2001 was referred to Lok Adalat and an award was passed by the Lok Adalat on 24.03.2001 granting Rs.1,40,000/-.

5. According to the petitioners, respondent Nos.5 and 6 are not legal heirs and they played fraud on the Court and obtained award through Lok Adalat and appropriated the compensation amount.

6. In fact, when the O.P. was filed by the petitioners, they have not delineated in their claim petition and that has been the observation of the Tribunal and the same came to light when RW.1, on behalf of the insurer, marked Exs.B-1 to B-4 and that the Tribunal making pertinent observation on that aspect of the case observing that respondent Nos.5 and 6 have not played any such fraud and even if any fraud is played by respondent Nos.6 and 7 as petitioners in O.P. No.207 of 2001, the remedy open for the petitioners is to challenge the same by way of initiating regular proceedings and observing thus, dismissed the claim petition.

7. Heard Sri Md. Saleem, learned counsel for the appellants - petitioners, who fairly conceded that the instant appeal is not maintainable in view of the circumstances afore-narrated, since the Tribunal has already made observation in paragraph No.11 that the

petitioners can challenge the award passed in O.P. No.207 of 2001 by initiating regular proceedings. Thus, there is no need to give any further direction by this Court.

8. For the aforesaid reasons, the instant Civil Miscellaneous Appeal is dismissed for want of merit. There shall be no orders as to costs.

9. As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

April 6, 2016.

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